

**OPINION
65-73**

June 24, 1965 (OPINION)

Mr. Eugene Kruger

State's Attorney

Cass County

RE: Counties - Funds - Investment

This is in reply to your letter of June 10, 1965, in regard to investment of surplus funds by the governing body of the county.

You are considering the possibilities of the governing body of the county depositing such funds, and funds which are not needed for an appreciable period of time in the future, in public depositories in this state. You are familiar with section 21-06-07 of the North Dakota Century Code with regard to allowing surpluses to be invested in United States Savings Bonds. The purpose, of course, would be to enable the county to have such surplus funds earning interest for them while awaiting the use of such funds.

You call attention to your fairgrounds mill levy by which you have been annually accumulating funds which are, in effect, lying dormant now and mention that it appears to you that it would be good fiscal management to invest those funds in interest bearing certificates of deposit or some other similar investment.

We are enclosing copies of recent correspondence of this office in this field. As will be noted therefrom, this office has taken the viewpoint that the statutes authorizing deposits in particular manners are grants of authority and that there is no authority to make deposits in a particular form of investment, except pursuant to such authorization.

Considering the practical aspects of the situation, we must recognize that in many instances fairground funds are accumulated until a sufficient surplus was built up to be of practical aid to fair association projects in much the same manner that a sinking fund or building fund may be accumulated. However, it is our opinion that in absence of statutory authority, investment may not be made except in the manner expressly provided by chapters 21-04 and 21-06 of the North Dakota Century Code.

HELGI JOHANNESON

Attorney General